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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,405	02/25/2002	Mark P. Zollner	CM04695H	3930

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EXAMINER

TRAN, PHILIP B

ART UNIT PAPER NUMBER

2155

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/082,405	<b>Applicant(s)</b> ZOLLNER ET AL.	
	<b>Examiner</b> Philip B. Tran	<b>Art Unit</b> 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Response to Reconsideration**

### ***Notice to Applicant***

1. This communication is in response to amendment filed 09 December 2005.

Claims 1-17 are pending for further examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent, U.S. Pat. No. 5,659,881.

Regarding claim 1, Kent teaches in a communication system having a plurality of communication devices distributed among one or more sites (= multi-site environment

with a plurality of communication devices) [see Fig. 1], a method comprising the steps of:

determining a rule-based criteria for prioritizing the sites (= determining ruled-based criteria for call priority in different sites) [see Abstract and Col. 4, Lines 24-38];

determining, based on the criteria, establishing service for the sites in order of the sequence (= determining event sequence for the calls from different sites and establishing the call service for different sites in priority) [see Col. 13, Line 33 to Col. 14, Line 44].

Ken does not explicitly teach a restart sequence for the sites in the event of a system restart. However, it would have been obvious to one of skilled in the art at the time of the invention was made to implement ruled-based criteria for call priority in different sites based on determination of event sequence for the calls, disclosed by Kent, into the specific event of a system restart in order to establish an efficient restart sequence for different sites based on a predetermined rule-based priority sequence.

Regarding claim 2, Kent further teaches the method of claim 1, performed by a network manager of the communication system (= system manager 211) [see Fig. 2].

Regarding claim 3, Kent further teaches the method of claim 1, performed by a zone controller of the communication system, the step of determining a rule-based criteria comprises receiving the rule-based criteria from a network manager of the communication system (= multi-site switch 200) [see Fig. 1].

Regarding claim 4, Kent further teaches the method of claim 3, wherein the step of determining a rule-based criteria comprises receiving periodic updates of the rule-based criteria from the network manager (= updating database) [see Col. 6, Line 54 to Col. 7, Line 22].

Regarding claim 5, Kent further teaches the method of claim 1, wherein the step of determining a rule-based criteria comprises determining one or more priority communication devices and prioritizing the sites based on locations of the one or more priority communication devices among the one or more sites [see Col. 13, Line 33 to Col. 14, Line 44].

Regarding claim 6, Kent further teaches the method of claim 1, wherein the step of determining a rule-based criteria comprises determining one or more priority talkgroups and prioritizing the sites based on locations of affiliated talkgroup members of the one or more priority talkgroups among the one or more sites [see Col. 11, Line 44 to Col. 12, Line 35 and Col. 13, Line 33 to Col. 14, Line 44].

Regarding claim 7, Kent further teaches the method of claim 1, wherein the step of determining a rule-based criteria comprises defining a console site as a highest priority site based on a number of monitored talkgroups at the console site [see Col. 14, Line 53 to Col. 15, Line 5].

Regarding claim 8, Kent further teaches the method of claim 1, wherein the plurality of communication devices are distributed among one or more sites and zones, the step of determining a rule-based criteria comprises determining a rule-based criteria for prioritizing the sites and zones, the step of determining a restart sequence comprises determining a restart sequence for the sites and zones, and the step of establishing service comprises establishing service for the sites and zone in order of the restart sequence [see Abstract and Figs. 1-2 and Col. 4, Lines 24-38 and Col. 11, Line 44 to Col. 12, Line 35 and Col. 13, Line 33 to Col. 14, Line 44].

Claim 9 is rejected under the same rationale set forth above to claim 1.

Claims 10-11 are rejected under the same rationale set forth above to claims 2-3, respectively.

Regarding claim 12, Kent further teaches the method of claim 11, wherein the step of obtaining system usage data comprises receiving the system usage data from a network manager of the communication system (= system manager 211) [see Fig. 2 and Col. 6, Lines 1-21].

Regarding claims 13-16, Kent does not explicitly teach the step of determining a rule-based criteria comprises prioritizing the sites based on subscriber activity among the one or more sites, prioritizing the sites based on numbers of affiliated subscribers among the one or more sites, prioritizing the sites based on air-time usage among the

one or more sites, prioritizing the sites based on numbers of call requests among the one or more sites. However, it would have been obvious to one skilled in the art to set different rule-based criteria as different design choices in order to efficiently provide services according to the predefined priority.

Claim 17 is rejected under the same rationale set forth above to claim 8.

***Response to Arguments***

4. Applicant's arguments have been fully considered but they are not persuasive because of the following reasons:

37 CFR 1.132 Declaration of Mark P. Zollner has been considered. However, 37 CFR 1.132 Declaration of Mark P. Zollner is insufficient because there is no factual evidence has been submitted. It is merely a personal opinion of Mr. Zollner (one of Inventors).

The instant specification (US Patent Application Pub. No. US 2003/0163557 A1) describes a rule based criteria is determined for prioritizing sites is determined by a zone controller wherein the zone controller(s) perform dispatch and telephone services, perform mobility management and resource allocation functions for communication devices within their respective zones, substantially as described in relation to FIG. 1. Where a call involves communication devices in multiple zones, a controlling zone controller may coordinate activities of zone controllers in other zones. For example, the zone controller of a sourcing zone may be configured as the controlling zone controller for a private call. Similarly, a controlling network manager may be configured statically

or dynamically to coordinate network manager functions and/or access statistics and historical information from network managers in multiple zones [see the instant specification, Abstract, Fig. 1, and Paragraphs [0015, 0028-0033]].

Similarly, Kent teaches in a communication system having a plurality of communication devices distributed among one or more sites. For example, Ken discloses multi-site environment with a plurality of communication devices [see Fig. 1], a method comprising the steps of determining a rule-based criteria for prioritizing the sites. That is, Kent discloses determining ruled-based criteria for call priority in different sites [see Abstract and Col. 4, Lines 24-38]. In addition, Kent further teaches determining, based on the criteria, establishing service for the sites in order of the sequence. For example, Kent discloses determining event sequence for the calls from different sites and establishing the call service for different sites in priority [see Col. 13, Line 33 to Col. 14, Line 44].

Ken does not explicitly teach a restart sequence for the sites in the event of a system restart. However, bringing in all of the sites and/or zones into service after failures, system upgrades, and the like is common and known in the art. Therefore, it would have been obvious to one of skilled in the art at the time of the invention was made to implement ruled-based criteria for call priority in different sites based on determination of event sequence for the calls, disclosed by Kent, into the specific event of a system restart in order to establish an efficient restart sequence for different sites based on a predetermined rule-based priority sequence.



As a result, cited prior art does disclose a system and method as broadly claimed by the applicant. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter recited in independent claims. Dependent claims are also rejected at least by virtue of dependency on independent claims and by other reasons shown above. Accordingly, claims 1-17 are respectfully rejected.

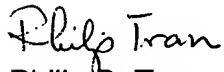
### ***Conclusion***

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

**A SHORTENED STATUTORY PERIOD FOR REPLY TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS ACTION. IN THE EVENT A FIRST REPLY IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CAR 1.136(A) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT, HOWEVER, WILL THE STATUTORY PERIOD FOR REPLY EXPIRE LATER THAN SIX MONTHS FROM THE MAILING DATE OF THIS FINAL ACTION.**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (571) 273-8300. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached on (571) 272-4006.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip B. Tran  
Primary Examiner  
Art Unit 2155  
Feb 08, 2006